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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

SELINA KEENE, MELODY FOUNTILA, MARK) Case No.: 4:22-cv-01587-JSW
 MCCLURE,)

Plaintiffs,)

v.)

CITY AND COUNTY OF SAN FRANCISCO;
 LONDON BREED, Mayor of San Francisco in her
 official capacity; CAROL ISEN, Human Resources
 Director, City and County of San Francisco, in her
 official capacity; DOES 1-100,

Defendants.)

DECLARATION OF RUSSELL DAVIS
 IN REBUTTAL TO DEFENDANTS'
 OPPOSITION TO THE EX PARTE
 APPLICATION TO SHORTEN TIME

Date: September 23, 2022
 Time: 9:00 a.m.
 Judge: Jeffrey S. White

DECLARATION OF RUSSELL DAVIS

1
2 1. I am the attorney for Plaintiffs in this matter. I have personal knowledge of the facts in
3 this declaration, and if called to testify about them, I would and could do so competently.

4 2. I write to correct some obvious mistakes in counsel's opposition declaration.

5 3. Opposing counsel states there is no emergency requiring shortened time. However, in
6 my declaration in support of shortening time I declared the following:
7

8 My clients are extremely prejudiced by the lack of a ruling in this matter. My
9 clients had not intended to retire for more than five (5) years. As a result of their
10 constructive firing, their retirement benefits are far lower than anticipated. Their
11 mortgage payments and simple items like buying food, paying for gas and electric
and water have now become far more of a burden. As a result, they have
contemplated having to sell their homes.

12 If being forced to sell one's home is not an emergency than I simply do not know what is.

13 4. Opposing counsel claims not to be available on September 23; however, DAVID CHIU
14 (State Bar #189542) and WAYNE K. SNODGRASS (State Bar #148137) are both listed on the
15 moving papers and there is no reason stated why either of them cannot appear.

16 5. Attached as Exhibit 1 herein is a copy of the full email thread from opposing counsel
17 and I. Opposing counsel plainly states that "we do not plan to contest." Yet here we are. It should
18 be obvious that the ex parte application is procedural only and there can be no prejudice to the
19 Defendants if it remains on calendar. Defendants have plenty of time to contest the substantive
20 motion, which is requested to be heard on September 30, 2022.

21 I declare under penalty of perjury under the laws of the State of California that the above is
22 true and correct. Executed on September 22, 2022, in San Francisco, California.
23

24 /s/ Russell Davis
25 Russell Davis
26 PACIFIC JUSTICE INSTITUTE
27 *Attorney for Plaintiffs*

EXHIBIT 1

RE: Keene v CCSF, NDCA Case No.4:22-cv-01587-JSW

From: Kimberlin, Kate (CAT) (kate.kimberlin@sfcityatty.org)

To: loanhound@sbcglobal.net

Cc: Jim.Emery@sfcityatty.org

Date: Wednesday, September 14, 2022 at 11:39 AM PDT

Hi Russell,

The email you sent us with ex parte notice didn't include the papers or the date. So, we didn't know the selected date until you filed yesterday. We do not plan to contest, but would also not want to simply no-show if the court wants appearances.

Very truly,

Kate G. Kimberlin
Deputy City Attorney
Office of San Francisco City Attorney David Chiu
1390 Market Street, Fifth Floor
San Francisco, CA 94102
Tel: 415.554.3847

From: Russell Davis <loanhound@sbcglobal.net>
Sent: Wednesday, September 14, 2022 11:11 AM
To: Kimberlin, Kate (CAT) <Kate.Kimberlin@sfcityatty.org>
Subject: Re: Keene v CCSF, NDCA Case No.4:22-cv-01587-JSW

The dates are on the moving papers. On another point: why would you want to contest this motion?

Russ

On Wednesday, September 14, 2022 at 10:38:10 AM PDT, Kimberlin, Kate (CAT) <kate.kimberlin@sfcityatty.org> wrote:

Dear Russell,

Unfortunately, you did not provide us with the date you planned to bring this motion for hearing. Neither Jim nor I are available on the date selected, September 23. Are you able to re-notice for a mutually agreeable date?

Thank you,

Kate G. Kimberlin
Deputy City Attorney
Office of San Francisco City Attorney David Chiu
1390 Market Street, Fifth Floor
San Francisco, CA 94102
Tel: 415.554.3847

From: Russell Davis <loanhound@sbcglobal.net>
Sent: Monday, September 12, 2022 6:24 PM
To: 'Russell Davis' <rdavis@pji.org>; 'ksnider@pji.org' <ksnider@pji.org>; Emery, Jim (CAT) <Jim.Emery@sfcityatty.org>
Cc: Kimberlin, Kate (CAT) <Kate.Kimberlin@sfcityatty.org>
Subject: Re: Keene v CCSF, NDCA Case No.4:22-cv-01587-JSW

I am giving you required notice that I am calendaring an ex parte application to shorten time to serve a motion to enter a ruling on the Plaintiffs motion for preliminary injunction.

Russell Davis, Esq.